



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, DECEMBER 5, 2006

The Council of the City of San José convened in regular session at 8:30 a.m. in the City Hall Wing, Conference Room W133, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 8:32 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) City of San José v. Petronio, et al.; (2) Sutter's Place, Inc. dba Bay 101 v. City of San José and Garden City, Inc. v. City of San José; (3) San José Silicon Valley Chamber of Commerce Political Action Committee, et al. v. City of San José. et al. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, Subsection (c) with respect to anticipated litigation with significant exposure in three (3) matters.

By unanimous consent, Council reconvened from the Closed Session and recessed at 9:35 a.m. and reconvened at 10:04 a.m. in the Council Chambers

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

INVOCATION

Father David Royal, Assyrian Church of the East. (Mayor)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

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ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 1.5 and 5.3 deferred to December 12, 2006. (11-0.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the San José Human Rights Commission for promoting the fulfillment of human rights in the City and helping the City Council to ensure that the rights of all San José residents are protected. (LeZotte)
(Rules in-Lieu referral 11/22/06)**

Action: Mayor Gonzales and Council Member LeZotte recognized and commended the San José Human Rights Commission.

- 1.5 Presentation of a commendation recognizing the San José Fire Department, San José Office of Emergency Services, the Mayor's Gang Prevention Task Force and community partners for their continued success in keeping San José the Safest Big City in America. (Mayor)
(Rules in-Lieu referral 11/22/06)**

Action: Deferred to December 12, 2006, per Orders of the Day.

- 1.6 Presentation of a commendation to State Bank of India for their contributions to San José. (Mayor/Chavez)
(Rules in-Lieu referral 11/22/06)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized and commended the State Bank of India for its contributions to the City of San José.

- 1.7 Presentation of a commendation to Kika Shibata of Ikebana Arts, in the San José Japantown, for 40 years of service and gracefully promoting Japanese culture throughout the growing and diverse community of San José. (Chavez)
(Rules Committee referral 11/29/06)**

Action: Dropped.

- 1.8 Presentation of commendations to the members of the faith-based community that partnered with Safe From the Start San José to raise funds for San José's Summer Lunch Program. (Chavez)
(Rules Committee referral 11/29/06)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized and commended members of the faith-based community that partnered with "Safe from the Start San José" to raise funds.

CONSENT CALENDAR

Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

2.1 Approval of Minutes.

- (a) **Regular minutes of February 14, 2006**
- (b) **Regular minutes of February 28, 2006**
[Deferred from 11/21/06 – Item 2.1(b) and (c)]

Documents Filed: The regular minutes dated February 14, 2006 and February 28, 2006.

Action: The minutes were approved. (11-0.)

- ### 2.2
- (a) **ORD. NO. 27885 – Rezoning certain real property situated on the southwesterly corner of Eberly Drive and Neilson Court to A(PD) Planned Development Zoning District. PDC04-091**
[Deferred from 10/17/06 – Item 2.2(d), et. al and 11/21/06 – Item 2.2(a)]

Documents Filed: (1) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated December 1, 2006, transmitting project plans and recommending adoption of the ordinance. (2) Proof of Publication of the title of Ordinance No. 27885 executed on October 10, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27885](#) was adopted. (11-0.) First Reading: (10-1. Noes: Reed.)

- (b) **ORD. NO. 27896 – Rezoning certain real property situated at the southwest corner of Alum Rock Avenue and McCreery Avenue to A(PD) Planned Development Zoning District. PDC05-112**

Documents Filed: Proof of Publication of the title of Ordinance No. 27896 executed on October 31, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27896](#) was adopted. (11-0.)

- (c) **ORD. NO. 27907 – Providing authorization to conduct and take actions with regard to the holding of an election to fill a vacancy in the office of Councilmember, District 4.**

Documents Filed: Proof of Publication of the title of Ordinance No. 27907 executed on November 21, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27907](#) was adopted. (11-0.)

- 2.2 (d) **ORD. NO. 27910** – Amending Section 23.04.020 of Chapter 23.04 of Title 23 of the San José Municipal Code to allow more flexible placement of skyline signs on buildings less than eighty-five feet in height and with a narrow street frontage in certain location of the City.

Documents Filed: Proof of Publication of the title of Ordinance No. 27910 executed on November 21, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27910](#) was adopted. (11-0.)

- (e) **ORD. NO. 27912** – Rezoning certain real property situated on the east side of North 2nd Street, approximately 140 feet northerly of St. James Street to DC Downtown Commercial Zoning District. C06-031

Documents Filed: Proof of Publication of the title of Ordinance No. 27912 executed on November 21, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27912](#) was adopted. (11-0.)

- (f) **ORD. NO. 27913** – Rezoning certain real property situated on the south side of Story Road approximately 150 feet east of Adrian Way (2250 Story Road) to CP Commercial Pedestrian Zoning District. C06-096

Action: Deferred to January 23, 2007.

- (g) **ORD. NO. 27914** – Rezoning certain real property situated at the west side of South 9th Street approximately 90 feet south of East William Street to A(PD) Planned Development Zoning District. PDC06-099

Documents Filed: Proof of Publication of the title of Ordinance No. 27914 executed on November 21, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27914](#) was adopted. (11-0.)

- (h) **ORD. NO. 27915** – Prezoning certain real property situated on the west side of Fleming Avenue, 350 feet northerly of Warner Avenue, to R-1-5 Single Family Residence Zoning District. C06-079

Documents Filed: Proof of Publication of the title of Ordinance No. 27915 executed on November 21, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27915](#) was adopted. (11-0.)

- 2.2 (i) **ORD. NO. 27916 – Prezoning certain real property situated on both sides of Perrymount Avenue, southwesterly of Stone Avenue, to HI Heavy Industrial Zoning District. C06-048**

Documents Filed: Proof of Publication of the title of Ordinance No. 27916 executed on November 21, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27916](#) was adopted. (11-0.)

- (j) **ORD. NO. 27917 – Prezoning certain real property situated at the northwesterly corner of Curtner Avenue and Stone Avenue to HI Heavy Industrial Zoning District. C06-051**

Documents Filed: Proof of Publication of the title of Ordinance No. 27917 executed on November 21, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27917](#) was adopted. (11-0.)

- (k) **ORD. NO. 27918 – Prezoning certain real property situated at the west side of Kettmann Road, approximately 75 feet southerly of Dashwood Avenue, to R-1-8 Single Family Residence Zoning District. C06-052**

Documents Filed: Proof of Publication of the title of Ordinance No. 27918 executed on November 21, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27918](#) was adopted. (11-0.)

- (l) **ORD. NO. 27919 – Rezoning certain real property situated at the southeast corner of Foxworthy and Leigh Avenues to A(PD) Planned Development Zoning District. PDC06-055**

Documents Filed: Proof of Publication of the title of Ordinance No. 27919 executed on November 21, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27919](#) was adopted. (11-0.)

- 2.3 (a) **Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**
- (1) **Increase the estimate for Earned Revenue by \$85,480.**
 - (2) **Decrease Ending Fund Balance by \$7,750.**
 - (3) **Establish an appropriation to the Department of Transportation for the Winchester Neighborhood ADA Ramp Installation Project (PSM #455) in the amount of \$10,000.**
 - (4) **Establish an appropriation to the Office of Cultural Affairs for the CADRE Artist Residency Project in the amount of \$7,750.**
 - (5) **Increase the appropriation to the Department of Parks, Recreation and Neighborhood Services for the Christmas in the Park Project (PSM# 473) in the amount of \$75,480.**
- (b) **Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Winchester Neighborhood ADA Ramp Installation Project as more specifically described in the memorandum from the Redevelopment Agency, dated May 30, 2006.**

CEQA: Exempt, File No. PP05-212 and PP05-007. Council Districts 1, 3, and 6. SNI: Winchester. (City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated November 13, 2006, recommending adoption of appropriation ordinance and funding sources resolution amendments and resolution.

Action: [Ordinance No. 27924](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Winchester Neighborhood ADA Ramp Installation Project, the CADRE Artist Residence Project and the Christmas in the Park Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption"; [Resolution No. 73528](#), entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 73265 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2006-2007 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund" and [Resolution No. 73529](#), entitled: "A Resolution of the Council of the City of San José Making Certain Determinations Regarding the Expenditure of Redevelopment Agency Funds for Certain Public Improvements in the Strong Neighborhoods Initiative Redevelopment Project Area", were adopted. (11-0.)

- 2.4 **Adoption of a resolution authorizing the Director of Finance to execute the first amendment revising the compensation schedule for the Airport Parking Facilities Management agreement between the City of San José and Ampco System Parking retroactive to November 8, 2006. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 13, 2006, recommending adoption of a resolution.

2.4 (Cont'd.)

Action: [Resolution No. 73530](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute the First Amendment to the Agreement for Airport Parking Facilities Management Services with Ampco System Parking", was adopted. (11-0.)

2.5 Adoption of resolution authorizing the Director of Finance to execute a purchase order to Jam Services, for 1,136 "countdown" pedestrian signal modules, at a cost of \$250,530 including tax, freight and a 60 month warranty against defect in materials and workmanship. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 13, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73531](#), entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute a Purchase Order to Jam Services for Pedestrian Signal Modules", was adopted. (11-0.)

2.6 Approval of the award for purchase of Herman Miller modular furniture from the authorized dealer, Pivot Interiors, for a total cost of \$222,612.37 including tax and delivery, and authorizing the Director of Finance to execute the purchase order. CEQA: Not a Project. (Finance)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 13, 2006, recommending approval of the purchase.

Action: The purchase was approved. (11-0.)

2.7 Acceptance of the annual status report on the Library Parcel Tax for Fiscal Year 2005-2006. CEQA: Not a Project. (Library)

Documents Filed: Memorandum from Library Director Jane Light, dated November 13, 2006, recommending acceptance of the report.

Action: The report was accepted. (11-0.)

2.8 Acceptance of the City's response to recommend action 1 of the 2005-2006 Santa Clara County Civil Grand Jury's report entitled "What is Santa Clara County doing about Childhood Obesity?" and authorization to forward the response to Judge Alden Danner, Presiding Judge, Santa Clara County Superior Court. CEQA: Not a Project. (Library)

Documents Filed: Memorandum from Library Director Jane Light, dated November 16, 2006, recommending acceptance of the report.

2.8 (Cont'd.0

Public Comment: Ross Signorino spoke about the dangers of too much sodium in soft water.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the report was accepted. (11-0.)

2.9 Approval of the Amended and Restated Agreement with the County of Santa Clara for the abatement of weeds. CEQA: Exempt, File No. PP06-196. (Planning, Building and Code Enforcement).

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 17, 2006, recommending approval for the agreement.

Action: The agreement was approved. (11-0.)

2.10 Review and acceptance of the San José Police Department's (SJPd) response to the 2005-2006 Santa Clara County Civil Grand Jury's report entitled "Reducing Language Barriers in Domestic Violence Calls" and authorization to forward the response to Judge Alden Danner, Presiding Judge, Santa Clara Superior Court. CEQA: Not a Project. (Police)

Documents Filed: Memorandum from Police Chief Robert Davis, dated November 13, 2006, recommending acceptance of the report.

Action: The report was accepted. (11-0.)

**2.11 Approval of appointment to fill vacancy on the HNVE Advisory Committee. (Mayor/Chirco)
(Rules Committee referral 11/29/06)**

Documents Filed: Memorandum from Mayor Gonzales, dated December 4, 2006, recommending approval of the appointment.

Action: Susana De Jesus Huerta was appointed. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – November 15, 2006 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated November 15, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council

- (1) Review November 28, 2006 Draft City Council Agenda

None, meeting was canceled.

- (2) Add New Items to November 21, 2006 Agenda

The Committee recommended approval of the November 21, 2006 with five additions.

- (3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

- (c) Legislative Update
 - (1) State - No Report
 - (2) Federal - No Report.

- (d) Meeting Schedules

City Clerk Lee Price informed the Committee of the time change of the December 5 and 12, 2006, both to begin at 10:00 a.m., 1:30 p.m. and 7:00 p.m., with Closed Session at 8:30 am.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated November 9, 2006, transmitting items for the Public Record and Administration for the period of November 3-8, 2006.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.

- (g) Rules Committee Reviews, Recommendations and Approvals

The Committee approved discussion of the development of a City Pilot Shopping Center Improvement Program outside of the Redevelopment Agency project areas using City and Redevelopment Agency Staff, as an item at the November 27, 2006 Driving a Strong Economy Committee Meeting.

- (h) Review of Significant Public Records Act Requests - There were none.

3.2 Report of the Rules Committee – November 15, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

- (i) Review of Council Policy Updates per Sunshine Reforms - There were none.
- (j) Open Forum

Bill Chew suggested that Civic Center TV, Channel 26, broadcast a schedule of City Meetings on the air.

- (k) Adjournment - The meeting was adjourned at 2:20 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, the Rules Committee Report and the actions of November 15, 2006, were accepted. (11-0.)

- 3.6 (a) Adoption of a resolution extending the Process Streamlining-Public Works Contract Awards Pilot Program until Council adopts an ordinance making the pilot program permanent.**
- (b) Direction to the City Attorney to draft an appropriate ordinance amending the Municipal Code to make the Process Streamlining-Public Works Contract Awards Pilot Program, without any changes to the terms and conditions, permanent.**

CEQA: Not a Project. (Public Works)

[Referred from 11/16/06 MGWB Committee 3.3(f)]

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 20, 2006, recommending adoption of a resolution.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member LeZotte and carried unanimously, [Resolution No. 73532](#), entitled: “A Resolution of the Council of the City of San José Extending the Pilot Program to Streamline the Award of Public Works Construction Contracts and Delegating Authority to Take the Director of Public Works to Take Certain Actions”, was adopted. (11-0.)

3.3 Report of the Making Government Work Better Committee – November 16, 2006
Council Member Reed, Chair

Documents Filed: The Making Government Work Better Committee dated November 16, 2006.

- (a) Consent Calendar. Memoranda from Director of Finance Scott Johnson, dated October 31, 2006 and November 2, 2006, recommending acceptance of the report.
 - (1) FY 2006-07 1st Quarter Debt Report (Finance)
 - (2) FY 2006-07 1st Quarter Investment Report (Finance)

The Committee approved the Consent Calendar.

3.3 Report of the Making Government Work Better Committee – November 16, 2006 Council Member Reed, Chair (Cont'd.)

- (b) External Auditor's Report on Single Audit for FY ended June 30, 2006 (Finance) Deferred to 1/18/07.
- (c) External Auditor's Report to MGWB Committee on Internal Control (Finance) Deferred to 1/18/07.
- (d) Grants Management Update. Attachment: Memorandum from Deputy City Manager Mark Linder, dated November 9, 2006, recommending acceptance of the report.

The Committee accepted the Staff report.

- (e) Presentation on GIS Projects. Attachment: Memorandum from Director of Public Works Katy Allen and Director of Information Technology Randall Murphy, dated November 9, 2006, transmitting the report.

The Committee accepted the Staff report with Staff requested to provide a brief presentation to the City Council in January/February 2007.

- (f) Update on Process Streamlining – Public Works Contract Awards. Attachment: Memorandum from Director of Public Works Katy Allen, dated November 2, 2006, transmitting the report.

The Committee accepted the Staff report to include the staff report to be agendaized on the City Council Agenda for 12/5/06. See Item 3.6 for Council action taken.

- (g) Semi-Annual Audit Recommendations Follow-up Report on all Outstanding Audit Recommendations for the Period Ending June 30, 2006. Attachment: Report from the Office of the City Auditor for the Period Ending June 30, 2006.

The Committee accepted the Staff report.

- (h) Oral Petitions - There were none.
- (i) Adjournment - The meeting was adjourned at 2:30 p.m.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez and carried unanimously, the Making Government Work Better Committee Report and the actions of November 16, 2006, were accepted. (11-0.)

- 3.4 (a) Acceptance of report on recent State action establishing a statewide franchising system for video services and implications on AT&T's encroachment permit applications for its Project Lightspeed.
- (b) Restate the City's willingness to expedite encroachment permits for Project Lightspeed infrastructure upon AT&T's acknowledgement that it will obtain a franchise prior to offering video services.

CEQA: Not a Project. (City Manager's Office)
(Deferred from 11/14/06 – Item 3.6)

Action: Deferred to December 12, 2006.

- 3.5 (a) Approval to consider the recommendations below pursuant to the Early Distribution Process Rules (2/3 vote required).
- (b) Discussion and possible action on the following:
- (1) Staff to provide Council with requirements and costs for providing lifetime medical to the Mayor and Council members, who have served two full terms through PERS medical coverage to be effective prior to January 1, 2007.
- (2) Staff to provide Council with options/requirements for switching from City medical coverage to PERS medical coverage with sufficient time for the Mayor or Councilmember to decline city coverage during the Open Enrollment period – November 1 – 17th and opt in to the PERS medical coverage.

CEQA: Not a Project. (LeZotte)
(Rules Committee referral 11/1/06)
(Deferred from 11/14/06 – Item 3.8)

Documents Filed: (1) Memorandum from Council Member LeZotte, dated November 9, 2006, recommending health benefit changes for Council Members and the Mayor. (2) Memorandum from Director Human Resources Mark Danaj, dated November 9, 2006, recommending acceptance of the staff report.

Action: Dropped.

- 3.7 (a) Acceptance of the report on the implementation of approved Procurement Reforms.
- (b) Adoption of a resolution approving Council Policy titled "Procurement and Contract Process Integrity and Conflicts of Interest".
- (c) Approval of an ordinance of the City of San José amending Chapters 4.04, 4.12, and repealing Chapters 4.06 and 4.13 of Title 4 of the San José Municipal Code to increase administrative contract authority for purchase of supplies, materials, equipment and services to \$1,000,000, to enact a protest procedure for purchases, and to amend, reorganize and consolidate various purchasing procedures.

CEQA: Not a Project. (Finance/City Attorney's Office)
(Deferred from 11/21/06 – Item 3.4)

3.7 (Cont'd.)

Action: Deferred to January 30, 2007.

3.9 Consideration of approval of an ordinance amending Title 12 of the San José Municipal Code to add Chapter 12.18 to establish the ground and procedure for the removal of members of the City Council from Office. CEQA: Not a Project. (City Attorney's Office)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 29, 2006, recommending approval of the ordinance.

Action: Upon motion by Council Member Reed, seconded by Council Member Yeager and carried, [Ordinance No. 27925](#), entitled: "An Ordinance of the City of San José Amending Title 12 of the San José Municipal Code to Add Chapter 12.18 to Specify the Ground and the Procedure for Removal of a Member of the City Council for Willful Misconduct in Office", was passed for publication. (9-2. Noes: Nguyen; Gonzales.)

3.10 Accept report on cost projections and policy options related to the completion of the Safe Neighborhood Parks and Recreation, the Neighborhood Libraries, and Public Safety bond programs, and provide direction to staff regarding the policy options for addressing unanticipated escalating construction costs. CEQA: Not a Project. (City Manager's Office)

Action: Deferred to January 23, 2007.

- 3.11 (a) Acceptance of the staff report to implement recommendations that improve communications with employees who are military reservists and to implement new procedures to expedite the military supplemental pay reconciliation process.**
- (b) Acceptance of staff's recommendation to provide supplemental pay and benefits to employees with less than one year of City service and/or who have not completed their initial probationary period by having the employee complete the probationary period upon return from military duty.**
- CEQA: Not a Project. (City Manager's Office/Human Resources/Finance)**
- (Referred from 11/14/06 – Item 3.4)**

Documents Filed: (1) Memorandum from City Attorney Richard Doyle, dated December 1, 2006, presenting background on military leave. (2) Memorandum from Chief Deputy City Manager Kay Winer, dated November 27, 2006, recommending acceptance of the staff report and recommendation as stated above.

Chief Deputy City Manager Kay Winer outlined the Military Leave Programs for the City of San José Employees.

Council discussion followed.

3.11 (Cont'd.)

Public Comment: Ross Signornino spoke in favor of the Staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, the report was accepted, with additional direction to Staff: (1) Report back to Council when the orientation packet has been completed; thereafter include customer feedback from the reservists regarding the entire preactivation orientation in a quarterly status report to Council. (2) Continue with reconciliation that Staff is working on with the 9 reservists on active duty and report back to Council. (3) Return to Council with a repayment strategy and a menu of options. (4) Look back at the intent of prior Council actions for opportunities to lower those repayments by not counting items such as food, housing or additional allowances and report back to Council. (11-0.)

3.13 **Review of the 2006 Annual Report regarding in-lieu fees collected by the City from developers in lieu of construction of public improvements. CEQA: Not a Project. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated November 13, 2006, recommending approval of the report.

Action: Upon motion by Council Member LeZotte, seconded by Vice Mayor Chavez, and carried unanimously, the report was approved. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 **Report of the Building Strong Neighborhoods Committee – November 20, 2006 Council Member Chirco, Chair**

Documents Filed: The Building Strong Neighborhoods Committee Report dated November 20, 2006.

- (a) Building Strong Neighborhoods Update/Status Report. Attachment: Memorandum from Deputy City Manager Mark Linder, November 8, 2006, transmitting the report.

The Committee accepted the Staff report.

- (b) Citywide Trail Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 6, 2006, transmitting the report.

The Committee accepted the Staff report.

4.1 Report of the Building Strong Neighborhoods Committee – November 20, 2006 Council Member Chirco, Chair (Cont'd.)

- (c) Review of Relevant Legislative Priorities. Attachment: Memorandum from Chief of Staff Deanna J. Santana and Director Intergovernmental Relations Betsy Shotwell, dated November 8, 2006, transmitting the report.

The Committee accepted the Staff report.

- (d) Review of Illegal Secondary Residential Units Policy. Memorandum from Director of Housing Leslye Krutko and Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 13, 2006, transmitting the report.

The Committee accepted the Staff report.

- (e) Review of Temporary Sign Ordinance. Attachment: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 8, 2006, transmitting the report.

The Committee accepted the Staff report.

- (f) Oral Petitions

Richard Kubanik spoke regarding improving the process of contacting residents who violate the sign ordinance.

- (g) Adjournment - The meeting was adjourned at 2:50 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member Williams and carried unanimously, the Building Strong Neighborhoods Committee Report and the actions of November 20, 2006, were accepted. (11-0.)

4.3 Adoption of a resolution initiating proceedings and setting a public hearing on January 23, 2007 at 7:00 p.m. for the reorganization of territory designated as Berryessa No. 68 which involves the annexation to the City of San José of on an approximately 15.3 gross acre County Pocket consisting of 2 parcels on the southeast corner of Capitol Avenue and Hostetter Road and the implementation of the annexation would result in the detachment of properties within the annexation area from West Valley Sanitation, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. (Bianchi, Clara Trustee; Santa Clara Valley Transit Authority, Owners). CEQA: Resolution No. 65459. (Related Rezoning C06-074). Council District 4. (Planning, Building and Code Enforcement)

Action: Dropped, to be renoticed.

NEIGHBORHOOD SERVICES

- 5.2 Approval of a Settlement and Parkland Agreement with FRIT San José Town and Country Village, LLC to satisfy the parkland requirements under the Parkland Dedication Ordinance (SJMC 19.38) for Santana Row. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 21, 2006, recommending approval of the agreement.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed and carried unanimously, the agreement was approved. (11-0.)

- 5.3 Approval of an agreement with the Boys and Girls Club of Silicon Valley (BGC) for joint use of the sports field located at 2195 and 2293 Cunningham Avenue for no fee, provided that the use is for standard Boys and Girls Club programs and further provided that the City receives use of the Smythe Clubhouse gym for a period of time and at times acceptable to City. CEQA: Exempt, File No. PP06-071. Council District 5. SNI: KONA, West Evergreen, East Valley/680. (Parks, Recreation and Neighborhood Services)**

Action: Deferred to December 12, 2006, per Orders of the Day.

- 5.4 Adoption of a resolution approving the 2006 amendment to the Lake Cunningham Park Master Plan and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting Program for the project. CEQA: Mitigated Negative Declaration, File No. PP06-043. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 13, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, [Resolution No. 73533](#), entitled: "A Resolution of the Council of the City of San José Approving the 2006 Amendment to the Lake Cunningham Park Master Plan Project, for Which an Initial Study/Mitigated Negative Declaration was Prepared in Accordance with the California Environmental Quality Act, and Adopting a Mitigation Monitoring and Reporting Program", was adopted. (11-0.)

- 5.5 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement between San José Golf, L.L.C., a limited liability corporation, and the City of San José for Operation and Maintenance of Rancho del Pueblo Golf Course at a cost not to exceed \$219,000 annually for the first year and adjusted thereafter annually based on the Consumer Price Index (CPI) for all urban Consumers in San Francisco – Oakland – San José area, and for a term not to exceed 15 years. CEQA: Mitigated Negative Declaration, File No. PDC96-020. (Parks, Recreation and Neighborhood Services)**

5.5 (Cont'd.)

Documents Filed: Memorandum from Acting Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated November 13, 2006, recommending adoption of a resolution.

Brief Council questions followed.

Action: Upon motion by Council Member Reed, seconded by Council Member Chirco and carried unanimously, [Resolution No. 73534](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with San José Golf, LLC for Operation and Maintenance of Rancho Del Pueblo Golf Course", was adopted, as amended, with the City Manager directed to negotiate agreements with Rancho Del Pueblo and Los Lagos on a month-to-month extension basis, including looking at performance measures and incentives. (11-0.)

- 5.6 (a) **Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the Santa Clara Valley Water District in an amount up to \$1,839,500 for the construction of the TRAIL: Airport Parkway Under-Crossing project.**
- (b) **Adoption of the following Appropriation Ordinance amendment in the Parks City-Wide Construction and Conveyance Tax Fund (Fund 391):**
- (1) **Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in an amount of \$532,000 for the TRAIL: Airport Parkway Under-Crossing Project; and**
 - (2) **Decrease the Ending Fund Balance by \$532,000.**
- CEQA: Mitigated Negative Declaration, File No. PP04-323. Council District 3. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Budget Director Larry Lisenbee, dated November 13, 2006, recommending adoption of a resolution and appropriation ordinance amendments.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73535](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with the Santa Clara Valley Water District for the Construction of the Trail: Airport Parkway Under-Crossing Project in an Amount Not To Exceed \$1,839,500" and [Ordinance No. 27926](#), entitled: "An Ordinance of the City of San José Amending Ordinance No. 27801 to Appropriate Monies in the Construction and Conveyance Tax Fund – Citywide Parks Purposes for the Trail: Airport Parkway Undercrossing Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" were adopted. (11-0.)

- 5.7 (a) Report on bids and award of contract for the Roosevelt Community Center - Package II Project in the amount of \$14,046,940, for the base bid and Add Alternate Nos. 2 and 3 to the low bidder, Arntz Builders, Inc., and approval of a contingency in the amount of \$702,325.**
- (b) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):**
- (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$1,370,000 for the Roosevelt Community Center – Multi-Service Project;**
 - (2) Reduce the Roosevelt Center Gymnasium Design Project by \$263,000; and;**
 - (3) Reduce the Reserve: Future PDO/PIFO Projects by \$1,107,000.**
- CEQA: Mitigated Negative Declaration, File No. PP03-12-397. Council District 3. SNI: Five Wounds/Brookwood Terrace. (Public Works/Parks, Recreation and Neighborhood Services/City Manager’s Office)**

Documents Filed: None.

Council questions to Staff followed. Concerns were expressed about project costs and the construction schedule.

Public Comment: Tom Arntz (Arntz Builders Inc.) spoke in favor of the Staff recommendation and will inform the City Council of any changes that impact the schedule.

Mayor Gonzales expressed opposition to approving the contract because the cost exceeds the engineer’s estimate by 1.7 million dollars.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried Item 5.7 was deferred to December 12, 2006. (9-1-1. Noes: Gonzales. Absent: LeZotte.)

ADJOURNMENT

The Morning Council Session was adjourned at 12:07 p.m.

RECESS/RECONVENE

The City Council recessed at 12:07 p.m. from the morning Council Session and reconvened at 1:31 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

STRATEGIC SUPPORT SERVICES

- 3.8 (a) Interview 2 applicants.**
(b) Appoint one applicant to serve the term on the Elections Commission ending March 1, 2009.

(City Clerk)

(Rules Committee referral 11/08/06)

(Deferred from 11/21/06 – Item 3.9)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated November 29, 2006, highlighting areas of potential conflict that may be disclosed by the applications.

The City Council interviewed Michael Smith and Norman Kline.

Action: Norman Kline received eight (8) votes and was appointed to serve term ending March 1, 2009.

- 3.12 Public hearing and adoption of a resolution to vacate a portion of a public alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street. CEQA: Exempt. Council District 3. SNI: Washington. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated November 13, 2006, recommending adoption of a resolution. (2) Proofs of Publications of Notices of Public Hearings, executed on November 24, 2006 and November 29, 2006, submitted by the City Clerk.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, [Resolution No. 73536](#), entitled: “A Resolution of the Council of the City of San José Vacating a Portion of a Public Alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street”, was adopted. (10-0-1. Absent: LeZotte.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with AMPCO System Parking for parking management and operation services, increasing total compensation by \$750,000 to a not to exceed amount of \$2,350,000, and extending the term of the agreement from January 1, 2007 to February 28, 2007. CEQA: Not a Project. (Transportation)**
- (b) Adoption of a resolution authorizing the Director of Finance to execute:**
- (1) An agreement with Central Parking Systems for the management of the City's downtown parking garages and surface lots for three (3) years at an estimated cost of \$3,477,670 annually to the City, and approve additional contingency funds of \$250,000 to compensate the vendor for reimbursable expenses incurred for services such as staffing for special events beyond normal operations and other enhanced services, for a total amount not to exceed \$3,727,670.**
 - (2) Three, one-year options to renew the agreement subject to annual Consumer Price Index price adjustments and annual appropriations.**
 - (3) Amendments to the agreement to add or delete parking facilities based upon the criteria in the agreement such as type and/or size of parking facility, activity, required staffing and/or maintenance, subject to additional appropriations.**

CEQA: Not a Project. (Finance)

(Deferred from 11/14/06 – Item 6.2)

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson, dated October 27, 2006, recommending adoption of a resolution. (2) Supplemental memoranda from Director of Finance Scott Johnson, dated November 7, 2006 and December 1, 2006, transmitting additional information. (3) Memorandum from Director of Transportation James Helmer, dated November 15, 2006, recommending adoption of a resolution.

Deputy Director of Finance Walter Rossman summarized the Management of Downtown Parking Garages.

Council discussion and comments followed.

Public Comment: Alisha Stanfield (Central Parking System) spoke in favor of the staff recommendation. Ross Signorino stated that bright lighting in the garages will discourage misbehavior.

6.2 (Cont'd.)

Action: Upon motion by Council Member Pyle, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73537](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Third Amendment to the Agreement with Ampco System Parking for Parking Management and Operation Services Increasing the Total Compensation by \$750,000 to a Not To Exceed Amount of \$2,350,000 and Extending the Term from January 1, 2006 to February 28, 2007” and [Resolution No. 73538](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Central Parking Systems for Management of the City’s Downtown Parking Garages and Surface Lots”, were adopted, with Staff requested to circulate an information memorandum regarding safety, security and cleanliness issues related to the downtown parking garages

- 6.3
- (a) **Execute an agreement with Lochar Corporation for the purchase of an Aircraft Noise and Flight Track Monitoring System, including hardware, software, installation and related professional services, a three year warranty, and shipping and taxes, for a total amount not to exceed \$1,347,705; and**
 - (b) **Execute change orders not to exceed a 5% contingency amount of \$67,385 to cover unanticipated changes or requirements; and**
 - (c) **Execute four additional one-year options to renew software maintenance, subject to annual appropriations.**

CEQA: Resolution Nos. 67380 and 71451, PP06-180. (Finance)
(Deferred from 11/21/06 – Item 6.2)

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated November 1, 2006, recommending adoption of a resolution.

Assistant Director of Aviation Frank Kirkbride responded to Council questions and comments. A short discussion followed.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez and carried unanimously, [Resolution No. 73539](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Finance to Execute an Agreement with Lochar Corporation for the Purchase of an Aircraft Noise and Flight Track Monitoring System”, was adopted. (11-0.)

- 6.4
- Adoption of a resolution authorizing City Manager to negotiate and execute an agreement with the County of Santa Clara, transferring to the City of San José final approval rights of all plans for future modifications to the nine miles of Capitol Expressway which extend from Highway 87 to Interstate 680, and subsequently accepting relinquishment of nine miles of Capitol Expressway to the City of San José. CEQA: Resolution to be adopted. Council Districts 5, 7, 8, and 10. SNI: West Evergreen, East Valley/680. (Transportation)**

Action: Deferred to December 12, 2006, to be heard concurrently with 10.2.

- 6.5 Adoption of a resolution to approve the designation of the intersection of Capitol Expressway/Capitol Avenue to the “Protected Intersection” list under the City’s Transportation Impact Policy 5-3. CEQA: Resolution to be adopted. Council District 5. SNI: East Valley/680. (Transportation)**

Action: Deferred to December 12, 2006, to be heard concurrently with 10.2.

- 6.6 (a) Acceptance of the traffic impact fee study as part of the Evergreen Area Development Policy.**
- (b) Approval of an ordinance adding Chapter 14.30 to Title 14 of the San José Municipal Code establishing a traffic impact fee on new residential pool unit development subject to the Evergreen Development Policy in order to implement the traffic improvements set forth in the Evergreen Development Policy and the Final Evergreen East Hills Vision Strategy Environmental Impact Report. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement recommend to the City Council approval of an ordinance to establish a Traffic Impact Fee on new residential development subject to the Evergreen Development Policy in order to implement the traffic improvements set forth in the Evergreen Development Policy and the Final Evergreen East Hills Vision Strategy Environmental Impact Report.**

CEQA: Resolution to be adopted. (Transportation)

Action: Deferred to December 12, 2006, to be heard concurrently with 10.2.

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 (a) Direction to staff to refine the downtown development policy to set forth height restrictions on new high-rise development to protect existing and future commercial airline service at Norman Y. Mineta San José International Airport.**
- (b) Direction to City and Agency staff to initiate amendments to the General Plan and other key policy documents to restrict maximum building heights of new development to elevations which would not impact airline emergency procedures criteria and are otherwise acceptable to the Federal Aviation Administration (FAA).**
- (c) Direction to the Administration to consider refinements to the development review process including:**
- (1) For projects subject to an FAA airspace determination, require that applicants have their federal submittals prepared by a licensed civil engineer and that a copy of the submittal be provided to the City; and,**
 - (2) For projects subject to an FAA airspace determination, require that applicants submit to the City a construction survey prepared by a licensed civil engineer verifying project elevations and location coordinates prior to issuance of an occupancy permit; and,**

- 9.1 (c) (3) For any proposed modifications or additions to existing buildings that are subject to an FAA airspace determination, such as roof-top accessory structures, require that such proposals be processed as development permit amendments; and,
- (4) Conduct outreach with the downtown development community to provide information and guidance on development height restrictions.
- (d) Direction to the Administration to follow up with the FAA to ensure that its databases are appropriately updated and corrected.
- (e) Report back to the Council in three years and after evaluating FAA and airline safety procedures and determine if any changes can be made (consistent with FAA procedures) to restore or increase downtown building heights

CEQA: Resolution No. 72767, File No. PP06-186. (City Manager's Office/ Redevelopment Agency)

Action: Deferred to January 23, 2007.

CLOSED SESSION REPORT

City Attorney Doyle disclosed the following Closed Session action(s) of December 5, 2006:

A. Authority to Pursue Appellate Review in a Litigation Case:

Case Name: Sutter's Place Inc. dba Bay 101 v. City of San José and Garden City, Inc. v. City of San José

Adverse Party or parties: Sutter's Place, Inc. dba Bay 101 and Frederick Wyle, as Trustee for Garden City, Inc.

Substance of Litigation: Administrative writ petitions and constitutional challenges to provisions of Title 16.

Council Vote: Ayes: Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Noes: None.
Disqualified: None.
Absent: None.

CLOSED SESSION REPORT (Cont'd.)

B. Authority to Initiate Litigation:

Authority to initiate litigation was given in one (1) matter. The name of the action and the defendant(s), as well as the substance of the litigation shall be disclosed to any person upon inquiry once the action is formally commenced.

Council Vote: Ayes: Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Noes: None.
Disqualified: None.
Absent: None.

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9851	East side of Almaden Rd. at the intersection of Malone Rd.	6	The Olson Company	15 Lots / 56 Units	Multi-Family Attached
9870	West side of Oakland Rd., 550' north of Rock Ave.	4	Taylor Woodrow Homes, Inc.	1 Lot / 53 Units	Single Family Attached
9882	Northeast corner of Market St. and San Salvador St.	3	MESA SOFA Partners, LLC	1 Lot / 213 Units	Multi-Family Attached

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

On October 25, 2005, City Council approved a one year pilot program that delegated authority to the Director of Public Works to award or reject bids on construction projects where the base contract amount is below \$1,000,000. In accordance with this policy, the following is a list of projects that were awarded or rejected by the Director of Public Works in November 2006

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Downer-Canoas Sanitary Sewer System Cleaning	10	AES Enterprises, Inc.	\$750,785	11/15/06
Traffic Signal Modification at Santa Clara Street and 28 th Street	3	San José Signal Electric Construction, Inc.	\$410,000	11/16/06
Saratoga: I-280 to Kiely Underground Utility District	1	Lewis & Tibbits, Inc.	\$893,844	11/16/06

OPEN FORUM

Documents Filed: Letter from Paul Manley, dated December 5, 2006, regarding a formal complaint and demand for corrections.

- (1) George Fokos suggested investing in Downtown San José.
- (2) Mark Trout voiced personal religious views.
- (3) Paul Manley informed Council of a formal complaint and a demand for corrections.
- (4) Robert Apgar expressed personal observations.
- (5) Ross Signorino congratulated Vice Mayor Chavez and Council Members LeZotte and Yeager and City Attorney Richard Doyle for all their hard work and efforts.

ADJOURNMENT

The Afternoon Council Session was adjourned at 2:56 p.m.

RECESS/RECONVENE

The City Council recessed at 3:23 p.m. from the Joint Redevelopment Agency Meeting and reconvened at 7:00 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

ORDERS OF THE EVENING

Council Member Yeager requested that Item 11.6 be deferred to a future date. There was no objection.

CEREMONIAL ITEMS

- 1.2 Presentation of a commendation in recognition of District 1 Heroes: Betty and Richard Kabanek, Shozo Kagoshima, David Moffat, Barbara Morrey, and Sarah Morse. (LeZotte)**
(Rules in-Lieu referral 11/22/06)

Action: Mayor Gonzales and Council Member LeZotte recognized and commended the District 1 Heroes: Betty and Richard Kabanek, Shozo Kagoshima, David Moffat, Barbara Morrey, and Sarah Morse.

- 1.3 Presentation of a commendation in recognition of District 1 Heroes: Charles Lauer and the Winchester Neighborhood Action Coalition, Pastor Joseph Leon, Robert Levy, Carol Schelling, and the District 1 Youth Advisory Council. (LeZotte)**
(Rules in-Lieu referral 11/22/06)

Action: Mayor Gonzales and Council Member LeZotte recognized and commended the District 1 Heroes: Winchester Neighborhood Action Coalition, Pastor Joseph Leon, Robert Levy, Carol Schelling, and the District 1 Youth Advisory Council.

- 1.4 Presentation of a commendation to the Advisory Commission on Rents recognizing the work that they have done for the City of San José. (Campos)**
(Rules in-Lieu referral 11/22/06)

Action: Mayor Gonzales and Council Member Campos recognized and commended the Advisory Commission on Rents for their efforts on behalf of the citizens of San José.

**1.9 Presentation of commendations to Viejitos Car Club and Bike Club and Pastor Sonny Lara for their work to stop gang violence in San José. (Chavez)
(Rules Committee referral 11/29/06)**

Action: Mayor Gonzales and Vice Mayor Chavez recognized and commended Viejitos Car Club and Bike Club and Pastor Sonny Lara for their efforts to stop gang violence in the City of San José.

SPECIAL CEREMONIAL ITEM

Action: Mayor Gonzales, the City Council and the City Manager's Office recognized and commended Council Member Yeager for his 6 years of improving and enriching the lives of all the residents of San José, and the employees of the City of San José.

COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Adoption of a resolution initiating proceedings and setting a public hearing on January 23, 2007 at 7:00 p.m. for the reorganization of territory designated as Piedmont No. 52 which involves the annexation to the City of San José on an approximately 1.14 gross acres County Pocket consisting of 3 parcels on the southwesterly side of Old Piedmont Road, approximately 100 feet northwest of Rowley Drive and the implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection, and Area No. 01 (Library Services) County Service. (Larson, Donald and Joy; Martinez, Cristina, owners). CEQA: Resolution No. 65459 (Related Rezoning C06-039) (Zoned A-Agricultural upon annexation pursuant to SJMC Section 20.120.310). Council District 4. (Planning, Building and Code Enforcement)

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 13, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, [Resolution No. 73541](#), entitled: "A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Piedmont No. 52, Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization", was adopted. (10-0-1. Absent: LeZotte.)

- 4.5 Adoption of a resolution initiating proceedings and setting a public hearing on January 23, 2007 at 7:00 p.m. for the reorganization of territory designated as Story No. 62 which involves the annexation to the City of San José on an approximately 0.82 gross acre County pocket consisting of 2 parcels on the west side of Fleming Avenue 350 feet northerly of Warner Avenue and the implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection, and Area No. 01 (Library Services) County Service. (Ramos Family Trust; Gutierrez, Ernesto, Owners). CEQA: Resolution No. 65459. (Related Rezoning C06-079). Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 13, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, [Resolution No. 73542](#); entitled: “A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Story No. 62, Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (10-0-1. Absent: LeZotte.)

- 4.6 Adoption of a resolution initiating proceedings and setting a public hearing on January 23, 2007 at 7:00 p.m. for the reorganization of territory designated as Monterey Park No. 108 which involves the annexation to the City of San José on an approximately 8.58 gross acre area consisting of 9 parcels on both sides of Perrymount Avenue, southwesterly of Stone Avenue and the implementation of the annexation would result in the detachment of properties within the annexation area from County Lighting County Service, Central Fire Protection, Area No. 01 (Library Services) County Service, and County Sanitation District 2-3. (Numerous Owners). CEQA: Resolution No. 65459. (Related Rezoning C06-048). Council District 7. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 13, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, [Resolution No. 73543](#), entitled: “A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Monterey Park No. 108, Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (10-0-1. Absent: LeZotte.)

- 4.7 Adoption of a resolution initiating proceedings and setting a public hearing on January 23, 2007 at 7:00 p.m. for the reorganization of territory designated as Monterey Park No. 109 which involves the annexation to the City of San José on an approximately 4.37 gross acre area consisting of 2 parcels on the Northwesterly corner of Curtner Avenue and Stone Avenue and the implementation of the annexation would result in the detachment of properties within the annexation area from County Lighting County Service, Central Fire Protection, Area No. 01 (Library Services) County Service, and County Sanitation District 2-3. (Blank, Christine; Owner). CEQA: Resolution No. 65459. (Related Prezoning C06-051). Council District 7. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 13, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, [Resolution No. 73544](#), entitled: “A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Monterey Park No. 109, Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (10-0-1. Absent: LeZotte.)

- 4.8 Adoption of a resolution initiating proceedings and setting a public hearing on January 23, 2007 at 7:00 p.m. for the reorganization of territory designated as Evergreen No. 196 which involves the annexation to the City of San José on an approximately 1.13 gross acre County Pocket located on the west side of Kettmann Road, approximately 75 feet southerly of Dashwood Avenue and the implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection and Area No. 01 (Library Services) County Service. (Bic Pho, Owner). CEQA: Resolution No. 65459. (Related Prezoning C06-052). Council District 8. (Planning, Building and Code Enforcement).**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 13, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, [Resolution No. 73545](#), entitled: “A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Evergreen No. 196, Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (10-0-1. Absent: LeZotte.)

- 4.9 Adoption of a resolution initiating proceedings and setting a public hearing on January 23, 2007 at 7:00 p.m. for the reorganization of territory designated as Evergreen No. 197 which involves the annexation to the City of San José on an approximately 1.33 gross acre County pocket consisting of 2 parcels on east side of San Felipe Road, 450 feet southerly of Larkspur Canyon Drive and the implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection, and Area No. 01 (Library Services) County Service. (Santa Clara Valley Water District; Dias, Lance, Owners). CEQA: Resolution No. 65459. (Zoned A-Agricultural upon annexation pursuant to SJMC Section 20.120.310). Council District 8. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 13, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, [Resolution No. 73546](#), entitled: “A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Evergreen No. 197, Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (10-0-1. Absent: LeZotte.)

- 4.10 Adoption of a resolution initiating proceedings and setting a public hearing on January 23, 2007 at 7:00 p.m. for the reorganization of territory designated as Evergreen No. 198 which involves the annexation to the City of San José on an approximately 1.57 gross acre County pocket consisting of 1 parcel on the east side of San Felipe Road, 560 feet northerly of Scenic Meadow Lane and the implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection, and Area No. 01 (Library Services) County Service. (Ceraolo R A & A 1998 Trust, Owner). CEQA: Resolution No. 65459. (Zoned A-Agricultural upon annexation pursuant to SJMC Section 20.120.310). Council District 8. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 13, 2006, recommending adoption of a resolution.

Action: Upon motion by Council Member Cortese, seconded by Council Member Campos and carried unanimously, [Resolution No. 73547](#), entitled: “A Resolution of the Council of the City of San José Initiating the Reorganization Proceedings for the Annexation and Detachment of Certain Uninhabited Territory Designated as Evergreen No. 198, Described Herein and Setting the Date, Time and Place for Consideration of Such Reorganization”, was adopted. (10-0-1. Absent: LeZotte.)

GENERAL PLAN

- 10.2 (a) Discussion on key Aspects/Issues related to the Evergreen•East Hills Vision Strategy Project.**
- (b) Approval to defer or to take action on the following:**
- (1) Public Hearing on the appeal of planning Commission’s certification of a final Environmental Impact Report (EIR) for the Evergreen East Hills Vision Strategy Project for an update to the Evergreen Development Policy, a Funding Agreement, General Plan Text and Land Use/Transportation Diagram Amendments, Planned Development Rezonings on approximately 542 acres; and to allow between 3,600 and 5,700 dwelling units, up to 500,000 square feet of retail, 75,000 square feet of office, up to 4.66 million square feet of campus industrial, and various transportation improvements and community amenities within the EEHVS area. CEQA: Resolution to be adopted. Director of Planning, Building, and Code Enforcement and Planning Commission recommend the City Council certify the Environmental Impact Report prepared for the project and find it in compliance with the requirements of CEQA. (6-0-1; Zito abstained). SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Council Districts 5, 7 and 8.**
 - (2) Public Hearing on the proposed funding agreement by and between the City of San José and the Evergreen•East Hills Vision Strategy Property Owners for the funding of certain improvements and amenities in the Evergreen Development Policy area. Director of Planning, Building and Code Enforcement recommendation pending. CEQA: Resolution to be adopted. SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Council Districts 5, 7 and 8.**
 - (3) Public Hearing on the proposed update to the Evergreen Development Policy for the Evergreen East Hills area of San José. CEQA: Resolution to be adopted. Director of Planning, Building, and Code Enforcement recommendation pending. The Planning Commission recommends to the City Council approval of either the staff’s or the developer’s proposed land use alternatives for the Four Opportunity Sites or a reconciled alternative. The Planning Commission also recommends approval of the proposed revised Evergreen Development Policy with the following components: (1) Arcadia Community Center occurs in Phase II, (2) limit the size of a grocery store on the Evergreen Valley College Site to no more than 20,000 square feet, (3) incorporate the Task Force amenity prioritization “H” (in Planning Commission Attachment 4), (4) reserve 40 acres on the Campus Industrial Site for a future high school, and (5) the “residential pool” incorporate the following: (a) residential “pool”**

10.2 (b) (3) (Cont'd.)

units be a minimum number (not a maximum), (b) excess units from the Four Opportunity Sites be transferred to “pool”, (c) residential “pool” units to be available immediately, and (d) residential “pool” allocation criteria should be flexible enough to ensure participation of all potential infill parcels. (7-0-0). SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Council Districts 5, 7 and 8.

(4) Public Hearing on General Plan Text and Land Use/Transportation Diagram amendments.

(a) Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Mixed-Use Overlay with Public/Quasi-Public, Medium Low Density Residential (8.0 DU/AC), Industrial Park, Office and Public Park and Open Space underlying land use designations to Mixed-Use with No Underlying Land Use Designation on an 81-acre site, known as Arcadia, located on the south side of Quimby Road 1,000 feet westerly of Capitol Expressway (Arcadia Homes, Inc. applicant/owner). SNI: West Evergreen. CEQA: Resolution to be Adopted, GP05-08-01a. Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation.

GP05-08-01A – Council District 8

(b) Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Private Recreation to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 114-acre site, known as Pleasant Hills Golf Course, located on the north east corner of Tully and S. White Roads (KB Home, applicant/Duino Family Partners, owner). Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation. CEQA: Resolution to be adopted.

GP05-08-01B – District 8

(c) Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 175-acre site, known as Campus Industrial – Berg, located on the north east corner of Fowler and Yerba Buena Roads and both sides of the future extension of Yerba Buena Road/Murillo Avenue, between Fowler and Aborn Roads (Berg & Berg Enterprises applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation. CEQA: Resolution to be adopted.

GP05-08-01C – District 8

- 10.2 (b) (4) (d) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 24-acre site, known as Campus Industrial – IDS, located on the east side of Yerba Buena Road opposite Verona Road (Investment Development Services, Inc. applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation. CEQA: Resolution to be adopted.**
GP05-08-01D – District 8
- (e) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Campus Industrial to Medium Density Residential (8-16 DU/AC), and Public Park and Open Space on a 120-acre site, known as Campus Industrial – Legacy, located on the north east corner of Yerba Buena and Old Yerba Buena Roads (Yerba Buena OPCO applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation. CEQA: Resolution to be adopted.**
GP05-08-01E – District 8
- (f) **Tentative approval of a General Plan amendment request to change the Land Use/Transportation Diagram designation from Public/Quasi-Public to Mixed-Use with No Underlying Land Use Designation on a 27-acre portion of the Evergreen Valley College Campus, located on the north side of Yerba Buena Road approximately 350 feet easterly of San Felipe Road (San José/Evergreen Community College District applicant/owner). Director of Planning, Building, and Code Enforcement recommendation pending. See item 10.3.b for Planning Commission recommendation. CEQA: Resolution to be adopted.**
GP05-08-01F – District 8
- (g) **Tentative approval of a General Plan Text amendment to revise text based on actions related to the update of the Evergreen Development Policy and General Plan Land Use/Transportation Diagram amendments, amend Appendix E to reduce the number of planned lanes from four to two on the following Major Collectors: Delta Road, Murillo Avenue (from Tully Road to Aborn Road), Nieman Boulevard, Quimby Road (east of White Road), Ruby Avenue (between Kohler Avenue and Aborn Road, and between Fowler and Delta Roads), Yerba Buena Road (from Old Yerba Buena Road to Aborn Road), and amend Appendix F, the Mixed Use Inventory, in conjunction with General Plan Land Use/Transportation**

10.2 (b) (4) (g) (Cont'd.)

**Diagram amendments GP05-08-01A and GP05-08-01F. SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval of General Plan Text Amendments to revise the text based on actions related to the update of the Evergreen Development Policy and General Plan Land Use/Transportation Diagram amendments, amend Appendix E to reduce the number of planned lanes from four to two on the following Major Collectors: Delta Road, Murillo Avenue (from Tully Road to Aborn Road), Nieman Boulevard, Ruby Avenue (between Kohler Avenue and Aborn Road, and between Fowler and Delta Roads), Yerba Buena Road (from Old Yerba Buena Road to Aborn Road), and amend Appendix F, the Mixed Use Inventory, in conjunction with General Plan Land Use/Transportation Diagram amendments GP05-08-01A and GP05-08-01F (5-2-0; Campos and Platten oppose). SNI: K.O.N.A, West Evergreen and East Valley/680 Communities. CEQA: Resolution to be adopted.
GPT05-08-01 – District 5, 7 and 8**

Action: Item 10.2 deferred to December 12, 2006.

10.3 Continuance of adoption of a resolution approving all General Plan amendment actions from November 14, 2006 and December 5, 2006 to December 12, 2006 and adoption of any related CEQA resolutions. (Planning, Building and Code Enforcement)

Action: Upon motion by Council Member Williams, seconded by Council Member Campos and carried unanimously, the General Plan Hearings were continued to December 12, 2006. (11-0.)

END OF GENERAL PLAN PUBLIC HEARINGS

PUBLIC HEARINGS ON CONSENT CALENDAR

City Clerk Lee Price read the requests for continuance of the applications. Mayor Gonzales opened the public hearing and there was no testimony from the floor. Upon motion by Council Member Pyle, seconded by Council Member Reed, and carried unanimously, the public hearing was closed and the below noted continuances and actions were taken as indicated. (11-0.)

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the southwest corner of Meridian Avenue and Curci Drive from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow a Residential Care Facility (Senior Assisted Living) with up to 98 units above an underground parking facility (993 Meridian Ave.) (Merrill Gardens at Willow Glen LLC, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (5-0-2).**

PDC05-091 - District 6

(Continued from 11/14/06 – Item 11.3)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-091, dated November 8, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 16, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on October 13, 2006, submitted by the City Clerk.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27927](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Meridian Avenue and Curci Drive to A(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

- (b) Consideration of a Director initiated rezoning ordinance rezoning an approximate 3.4 gross acre site consisting of 4 parcels located on the north side of Story Road, 780 feet westerly of Machado Lane from County of Santa Clara to R-1-RR Rural Residential Zoning District for single-family residential purposes (Reyes, Jesus and Maria; McNelly, Dagmar; Jones, Lenora M; Martinez, Ramon and Elizabeth, Owners). CEQA: Resolution No. 65459. (Related Annexation Story No. 61) Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required.**

C06-075 - District 5

11.1 (b) (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-075, dated October 5, 2006, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk.

Director of Planning, Building and Code Enforcement Joe Horwedel clarified that R-1-RR is Rural Residential Zoning District.

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 27928](#), entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the North Side of Story Road, 780 Feet Westerly of Machado Lane, to R-1-RR Rural Residential Zoning District", was passed for publication. (11-0.)

- (c) **Consideration of a Director initiated prezoning ordinance prezoning an approximately 4.3 gross acre area consisting of 3 parcels located on the southeast side of Story Lane, 870 feet northeasterly of Clayton Road from County of Santa Clara to R-1-2 Single Family Residence District for single-family residential purposes (Nagashima, Ben and Alice, Trustee; Nagashima, Janet; Nguyen, Phuong Mai, Owners). CEQA: Resolution No. 65459. (Related Annexation Story No. 63) Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required.**

C06-076 - District 5

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-076, dated October 5, 2006, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk.

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 27929](#), entitled: "An Ordinance of the City of San José Prezoning Certain Real Property Situated on the Southeast Side of Story Lane, 870 Feet Northeasterly of Clayton Road, to R-1-2 Single Family Residence Zoning District", was passed for publication. (11-0.)

- 11.1 (d) **Consideration of a Director initiated rezoning ordinance rezoning an approximately 3.4 gross acre area consisting of 3 parcels on the northwest side of Watters Drive, 60 feet northerly of Story Road from unincorporated county to R-1-RR Single Family Residence District (Vaughn, Charles; McMullen, Keith and Beverly; Pfeil, Robert, Owners). CEQA: Resolution No. 65459. (Related Annexation Story No. 60) Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required.**
C06-078 - District 5

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-078, dated November 13, 2006, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk.

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 27930](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Side of Watters Drive, 60 Feet Northerly of Story Road, to R-1-RR Rural Residential Zoning District", was passed for publication. (11-0.)

- (e) **Consideration of an ordinance rezoning the real property at/on the east side of Ruby Avenue across from Rio Bravo Drive from County to R-1-2 Residential Zoning District to allow single family residential uses on a 0.43 gross acre site. (2480 Ruby Ave.) (Garcia, Richard J and Sarafina M, Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommended approval. No Planning Commission action required.**
C06-088 - District 8

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C06-088, dated November 13, 2006, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk.

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 27931](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated at the East Side of Ruby Avenue Across from Rio Bravo Drive (2480 Ruby Avenue) to R-1-2 Single Family Residence Zoning District", was passed for publication. (11-0.)

- 11.1 (f) **Consideration of an Ordinance of the City of San José amending Ordinance No. 27606 to extend the expiration date of a limited pilot program to allow certain second residential units, from December 31, 2006 to June 30, 2007, which program automatically terminates if 100 permits are issued; and amending Ordinance No. 27675 to extend until June 30, 2007 the temporary suspension of Chapter 14.25 of Title 14 of the San José Municipal Code pertaining to park impact requirements otherwise applicable to second units, without modifying other parts of the second unit pilot program. CEQA: Exempt. Staff recommended that the City Council adopt the proposed ordinance extending the pilot program for second units, which allows up to 100 total new permits, until June 30, 2007.**

PP05-196 – Citywide

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel and Director of Housing Leslye Krutko, dated November 20, 2006, recommending adoption of the ordinance. (2) Supplemental memorandum from Director of Housing Leslye Krutko and Director of Planning, Building and Code Enforcement Joe Horwedel, dated November 30, 2006, transmitting additional information. (3) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk.

Action: [Ordinance No. 27932](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 27606 to Extend the Expiration Date of a Limited Pilot Program to Allow Certain Second Residential Units, From December 31, 2006 to June 30, 2007, which Program Automatically Terminates if 100 Permits are Issued; and Amending Ordinance No. 27675 to Extend until June 30, 2007 the Temporary Suspension of Chapter 14.25 of Title 14 of the San José Municipal Code Pertaining to Park Impact Requirements Otherwise Applicable to Second Units, Without Modifying Other Parts of the Second Unit Pilot Program”, was passed for publication. (11-0.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of an ordinance of the City of San José amending Chapter 21.04 of Title 21 of the San José Municipal Code to add a new section and amending Section 21.06 of Chapter 21.06 of Title 21, all related to providing for an additional appeal to the City Council of certain environmental clearance determinations. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (5-0-2). CEQA: Not a Project. (Planning, Building and Code Enforcement) [Continued from 8/29/06 – Item 11.1(k), 10/3/06 – Item 11.3 and 10/24/06 – Item 11.2]**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement, dated November 15, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 17, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notices of Public Hearings, executed on July 28, 2006, and August 7, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Chirco, seconded by Council Member Cortese and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27933](#), entitled: “An Ordinance of the City of San José Amending Chapter 21.04 of Title 21 of the San José Municipal Code to Add a New Section and Amending Sections 21.06.010, 21.06.020 and 21.06.030 of Chapter 21.06 of Title 21 of the San José Municipal Code, All Related to Providing for Appeals to City Council of Environmental Clearance Determinations Made Pursuant to Title 21 of the San José Municipal Code ”, was passed for publication. (11-0.)

- 11.3 Administrative Hearing on consideration of an appeal of the Planning Director’s decision to deny a Tentative Map Permit to subdivide two parcels into 16 lots for single-family detached residential uses on a 684.5 gross acre site in the R-1-1 Single-Family Residence Zoning District, located approximately 500 feet east of Almaden Road and 500 feet west of McKean Road. CEQA: Environmental Review: Incomplete. Director of Planning, Building and Code Enforcement recommended to uphold the Director’s decision to deny. No Planning Commission action required. T06-051 – District 10 (Continued from 11/14/06 – Item 11.2)**

11.3 (Cont'd.)

Documents Filed: (1) Memorandum from Council Member Pyle, dated December 4, 2006, recommending uphold Planning Director's decision to deny with additional direction. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement, dated October 25, 2006, recommending denial of the appeal. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated December 1, 2006, transmitting additional information. (4) Proof of Publication of Notice of Public Hearing, executed on October 27, 2006, submitted by the City Clerk. (5) Letters from Hopkins and Carley, dated November 9, 2006 and December 5, 2006, regarding the subject appeal.

Director of Planning, Building and Code Enforcement Joe Horwedel outlined the decision to deny the Tentative Map Permit.

Public Comment: Mayor Gonzales opened the public hearing. Joan Gallo, representing the Appellant, spoke to the merits of the appeal and urged the Council to allow the process to go forward. Tom Armstrong (HMH Engineers) and Tom Direct spoke in favor of the appeal. Michelle Beasley (Green Belt Alliance) spoke in opposition to the project and urged the Council to uphold the Planning Director's decision to deny the application.

Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Pyle, seconded by Council Member Cortese and carried unanimously, [Resolution No.73548](#): entitled: "A Resolution of the Council of the City of San José Denying the Appeal by Rancho San Vicente LLC and Upholding the Planning Director's Decision to Deny a Tentative Map Application, File No. T06-051, Proposing to Subdivide Two Parcels into 16 Lots for Single Family Detached Residential Uses on a 684.5 Gross Acre Site Located Approximately 500 Feet East of Almaden Road and 500 Feet West of McKean Road Adjacent to Calero Reservoir", was adopted, with Planning Staff directed to conduct a growth assessment of the South Almaden Valley Urban Reserve. (11-0.)

11.4 **Consideration of an ordinance rezoning the real property located on the terminus of Duckett Way, approximately 420 feet east of S. De Anza Boulevard from R-1-5 Residence Zoning District to A(PD) Planned Development Zoning District to allow up to 19 new single family attached residential units and one single family residence on an 1.83 gross acre site (1566 Duckett Way) (P. Lenahan and M. Barshow, Owners; Barry Swenson Builders, Developer). CEQA: Mitigated Negative Declaration. The Director of Planning, Building and Code Enforcement and Planning Commission recommended to not adopt the rezoning ordinance (4-1-2). PDC06-062 - District 1**

Action: Deferred to December 12, 2006.

- 11.5 Administrative Hearing on consideration of an appeal of the Planning Commission's decision to deny a Planned Development Permit and Determination of Public Convenience or Necessity to allow off-sale of alcoholic beverages and a new sign at an existing retail store (Taylor Street Market) on a 9.02 gross acre site, in the A(PD) Planned Development Zoning District, located at/on the southwest corner of East Taylor and North Ninth Streets (350 E Taylor Street) (The Esplanade, Owner). CEQA: Exempt. The Director of Planning, Building and Code Enforcement recommended that the City Council uphold the Planning Commission's action to deny the Planned Development Permit and Determination of Public Convenience or Necessity.**
PD06-015/ABC06-014 – District 3

Public Comment: Mayor Gonzales opened the public hearing. The Owner of the Taylor Street Market spoke in favor of the application. Christopher Jelinek (Ultimate Tanning Salon, LLC) and Jacque Mazutis (The Esplanade) spoke in favor of the project.

Mayor Gonzales closed the public hearing.

Council discussion followed. Vice Mayor Chavez proposed that the item be deferred to allow the applicant to obtain more input from the neighborhood. The applicant had no objections.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, Item 11.5 was deferred to a future date, with Planning Staff requested to continue to work with the Applicant and ensure extensive community outreach. (11-0.)

- 11.6 Consideration of an ordinance rezoning the real property located on the east side of Bird Avenue, approximately 490 feet northeasterly of Snyder Avenue (1023 Bird Avenue), from R-1-8 Residence Zoning District to A(PD) Planned Development Zoning District to allow approximately 530 square feet of living space in an existing two-story accessory structure on an existing single-family lot of a 0.15 gross acre site (Keith Shukait Et. Al, Owner). CEQA: Exempt. The Planning Director recommended that the City Council not adopt the subject rezoning, consistent with Planning Commission's recommendations, for reasons stated in the report.**
PDC03-060 - District 6

Action: Continued to 2007, per Orders of the Evening.

- 11.7 Consideration of an ordinance rezoning the real property located at/on the southeast corner of Stevens Creek and South Winchester Boulevard (3055 Olin Avenue) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to: (1) allow up to 400 additional multi-family attached residences (1,601 total units if a second hotel is not built) or up to 210 additional dwelling units (1,411 total units if the second hotel is built); (2) allow an additional 15,000 square feet of retail/commercial space for a total of 695,000 square feet; (3) allow up to 20,000 square feet of currently permitted general retail/commercial space to be replaced with 20,000 square feet of restaurant space for a total of 115,200 square feet of restaurant/night club uses; and (4) reduction in required parking on the 40.79 gross acre Santana Row site (FRIT San José Town & Country Village LLC, Owner/Developer). CEQA: Addendum to Final EIR. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-1-0).
PDC05-030 - District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-030, dated November 17, 2006, recommending approval on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 30, 2006 transmitting the Planning Commission recommendation of the subject property. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joe Horwedel, dated December 4, 2006, transmitting additional information. (4) Proof of Publications of Notices of Public Hearings, executed on November 17, 2006 and November 26, 2006, submitted by the City Clerk. (5) Signed petitions from the public, dated December 5, 2006.

Public Comment: Mayor Gonzales opened the public hearing. Speaking in support were Representatives Linda Callon and Randy Paul (Santana Row). Speaking in opposition were Bill Zahrt who submitted a petition against the proposal signed by 52 neighbors and Craig Bradley (representing the Villas Homeowners Committee). Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27934](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southeast Corner of Stevens Creek and South Winchester Boulevards (3055 Olin Avenue) to A(PD) Planned Development Zoning District", was passed for publication, as amended, with Staff directed to: (1) During the Permit Phase, heights on parcel 10 will be determined in such a way so the building will be designed as to scale down towards the adjacent properties; massing should be oriented away from the perimeter of the site and/or the building should step back as it relates to the adjacent uses. (2) Prior to issuing the Development Permit for Parcels 9 and 10, the applicant and staff will conduct a community process to address and design traffic calming and circulation solutions along Monroe, paying particular attention to the intersection at Monroe and Tisch. (3) Staff to continue to evaluate whether it is feasible to accelerate the building of a dedicated ramp from northbound 280 to northbound 880. (11-0.)

- 11.8 Consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit for the off-sale of beer and wine for an existing retail store on a 5.18 gross acre site, in the CP Pedestrian Commercial and CN Neighborhood Commercial Zoning District, located on the south side of story Road, approximately 200 feet west of S. King Road (1604 Story Road) (Dennis Fong, Owner). SNI: East Valley/680 Communities & KONA. CEQA: Exempt. The Director of Planning, Building and Code Enforcement recommended that the City Council uphold the Planning commission's decision to deny a Conditional Use Permit to allow off-sale of alcoholic beverages at an exiting retail store (Dollar Market).
CP06-015 – District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CP06-015, dated August 8, 2006, recommending denial on the subject property. (2) Memorandum from Planning Commission Secretary Joe Horwedel, dated November 13, 2006 transmitting the Planning Commission recommendation. (3) Proof of Publication of Notice of Public Hearing, executed on November 24, 2006, submitted by the City Clerk (4) Signed petitions from the public dated December 5, 2006.

Public Comment: Mayor Gonzales opened the public hearing. Speaking against the Conditional Use Permit and in support of the decision to deny it were: Carlos De Silva, Jose Aranda, Helen Johnson, Ruben Dominguez, Fabio Gonzalez, Carmen Moreno, Hien Huynh, Gloria Rivera, Iesha Bayona, Alofa Talivaa, Ted Johnson, Frank Chavez, Jorge Villasenor and Felipe Juarez.

Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Nguyen, seconded by Vice Mayor Chavez, and carried unanimously, [Resolution No. 73549](#) was adopted to uphold the denial. (11-0.)

- 11.9 Consideration of an ordinance of the City of San José amending Chapter 20.90 of Title 20 of the San José Municipal Code, the Zoning Code, to reduce parking requirements for specific ground floor commercial uses within the neighborhood business districts and to reduce parking requirements for miniwarehouses/ministorage uses Citywide. CEQA: Negative Declaration.
PP06-172 – Citywide**

Action: Continued to December 12, 2006.

OPEN FORUM

Speaking to the removal of the banner at the San José Ice Rink were:

- (1) Dan Mayfield, National Lawyers Guild
- (2) Catherine Gilardi, Amnesty International
- (3) Terry McCaffery, Amnesty International
- (4) Charlotte Casey
- (5) Catherine Curtis, Southbay Mobilization

ADJOURNMENT

The Council of the City of San José adjourned at 9:19 p.m.

ATTEST:

LEE PRICE, MMC, CITY CLERK

smd/12-5-06MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at www.sanjoseca.gov/clerk/MeetingArchive.asp

JOINT REDEVELOPMENT AGENCY ITEM

The Joint Redevelopment Agency Board convened at 3:22 p.m. to consider Items 8.1 in a Joint Session.

8.1 Adoption of resolutions by the City Council and Agency Board approving the Annual Report of Financial Transactions of Community Redevelopment Agencies, Fiscal Year 2005-06, and directing staff to forward the report to the State of California Controller. [MERGED]

Documents Filed: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated December 5, 2006, recommending adoption of resolutions.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Williams and carried unanimously, [Resolution No. 73540](#), entitled: “A Resolution of the Council of the City of San José Approving, In Substantial Form, the Annual Report of Financial Transactions of Community Redevelopment Agencies, Fiscal Year 2005-2006 and Directing Staff to Forward the Report to the State of California Controller” and Redevelopment Agency Resolution No. 5721, were adopted. (11-0.)

The Council of the City of San José, and Redevelopment Agency Board adjourned at 3:23 p.m.